

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION)	MDL 2804
OPIATE LITIGATION)	
)	Case No. 1:17-md-2804
THIS DOCUMENT RELATES TO:)	
)	Judge Dan Aaron Polster
Montgomery County Board of County)	
Commissioners & the State of Ohio Ex. Rel.)	<u>ORDER DENYING PHARMACY</u>
Mathias H. Heck, Jr., Prosecuting Attorney)	<u>DEFENDANTS' MOTION TO DISMISS</u>
v. Cardinal Health, Inc. et al.,)	<u>MONTGOMERY COUNTY'S</u>
)	<u>SUPPLEMENTAL COMPLAINT</u>
Case No. 1:18-op-46326-DAP)	

Before the Court is the Pharmacy Defendants' Motion To Dismiss Montgomery County's Supplemental Complaint (Doc. 3762). In their motion, the Pharmacy Defendants make no new arguments for dismissal of Montgomery County's public nuisance claims, but rather reiterate and preserve for the record prior arguments made in the *Track One* bellwether case against Summit and Cuyahoga Counties and in the motion to dismiss the *Track Three* complaint. *See Pharmacies' Memorandum in Support*, Doc. 3762-1 at 1-2 (incorporating arguments made in "No. 17-md-2804, Doc. 497 (Pharmacy Defendants' motion to dismiss); Doc. 491 (Distributor Defendants' motion to dismiss); Doc. 1874 (Pharmacy Defendants' motion for summary judgment on statute of limitations); Doc. 1883 (Pharmacy Defendants' motion for summary judgment on preemption); Doc. 1885 (Pharmacy Defendants' motion for summary judgment on causation); Doc 2159 (opposition to Track One Plaintiffs' motion for partial summary adjudication of Defendants' duties under the Controlled Substance Act ("CSA")); Doc. No. 3340 (Pharmacy Defendants' motion to dismiss)").

By agreement of the parties and with the guidance of the Special Master, Plaintiffs will not file a response with the understanding that the Court has already carefully reviewed, considered, and rejected all of the Pharmacy Defendant's arguments listed above and hereby does so again by incorporation of its prior rulings on those arguments.¹ *See*, Doc. 1025 (Report and Recommendation rejecting arguments made in Pharmacies' and Distributors' motions to dismiss *Track One* complaints); Doc. 1203 (Opinion and Order adopting-in-part and rejecting-in-part the report and recommendation); Doc. 2568 (Opinion and Order denying Defendants' motions for summary judgment based on statutes of limitations); Doc. 2565 (Opinion and Order denying defendants' motions for summary judgment based on preemption); Doc. 2561 (Opinion and Order denying Defendants' motions for summary judgment based on causation); Doc. 2483 (Opinion and Order granting Plaintiffs' motion for partial summary adjudication of Defendants' duties under the Controlled Substances Act); Doc. 3403 (Opinion and Order denying Pharmacy Defendants' motion to dismiss *Track Three* complaints).

Accordingly, Pharmacy Defendants' Motion To Dismiss Montgomery County's Supplemental Complaint is **DENIED**.

IT IS SO ORDERED.

/s/ Dan Aaron Polster June 23, 2021
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

¹ Plaintiffs' arguments on these issues are likewise preserved for the record.